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IN THE

Supreme Court of the United States

No. 248

JOHN HOWARD LAWSON,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

No. 249

DALTON TRUMBO,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

AMICUS CURIAE BRIEF OF THE AMERICAN SLAV CONGRESS

SAMUEL NEUBURGER,
Counsel.

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AMICUS CURIAE BRIEF OF THE AMERICAN SLAV CONGRESS

STATEMENT

The American Slav Congress is a non-partisan organization of Americans of Slavic origin. An organization of organizations, it strives to affiliate, coordinate and encourage the activities of Slavic fraternal societies, churches, cultural and social clubs and trade union groups for a united program of peace, economic security and progress.

In 1942 Mr. Paul V. McNutt, then Chairman of the War Manpower Commission, described the contribution of Slavic Americans to the war effort of the United States and their devotion to the ideas of freedom and democracy in the following manner:

> "In this American Slav Congress you have shown the world the miracle of American unity. . . . Millions of those engaged in making war materials are of Slavic birth

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> or descent. You American Slavs helped to build America. Our great bridges and dams and steel cities are monuments to a million unknown Slav immigrants. . . . Today you are helping defend what you have made. Every division of our Army, every ship of our Navy, every squadron of our Air Forces, number servicemen with Slavic names. The armies of freedom are waiting with terrible eagerness for the weapons you will make. Armies of your race—the unbeaten and unbeatable Slav. . . . Following in your Slav traditions, I know that America can still rely on you to do the impossible!"

In the exercise of that political responsibility which stems from a continuing and unshakable devotion to the ideas of freedom and democracy the American Slav Congress herewith respectfully requests leave to file the following brief amicus curiae.

ARGUMENT

No route, no matter how circuitous, must be open to those in our society who would deny the following rationale of our faith:

> "Because in a democracy the people must have the right to choose the good from the bad ideas, no governmental authority . . . can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion." *Board of Education* v. *Barnette*, 319 U.S. 624, 641, 642 (1943).

Indeed,

> "The very purpose of the First Amendment is to preclude public authority from assuming a guardianship of the public's mind through regulating press, speech and religion. In this field every person must be his own watchman for truth, because the forefathers did not want any government to separate the truth from the false for us." *Thomas* v. *Collins*, 323 U.S. 511, 545 (1945).

These cases, in that they involve departures from the above stated principles, bring before this Court an issue which goes to

the very core of our constitutional democracy. They clearly instance attempts by governmental bodies to regulate the speech, the thoughts and the associations of the sovereign people. For this Court to do otherwise than to strike down these legislative and executive usurpations of rights reserved to the people in the First Amendment to their Constitution would be to abdicate the function ascribed to the Judiciary in the same Constitution. The American Slav Congress vigorously commends to this Court the contention that Section 121(b)(1)(q), Legislative Reorganization Act of 1946, P. L. 601, Chap. 753, 79th Cong., 2nd Sess. 60 Stat. 828, amending Rule XI(1) (2) of the Rules of the House of Representatives exceeds the boundaries of legislative power under Article I of the Constitution in that it is legislation designed to regulate the content of speech and ideas.

It is, however, with the illegal tactic of "exposure" adopted by the House Committee on Un-American Activities, that this amicus curiae seeks particularly to concern itself. For the said Committee's claim that it may use its investigatory power generally to "expose" on the premise that "exposure" is a permissible end in itself* constitutes an attack upon our historic freedoms no less vicious by virtue of its indirection. Investigation and exposure may be inevitable by-products of the proper exercise of the legislative power in aid of a constitutional objective (*United States* v. *Harris*, 106 U.S. 629, 636), but such by-products may not be made ends in themselves. When, in fact, such improper ends are sought in circumvention of a clear prohibition on legislative action by this House Committee, they must be specifically and particularly condemned.

The First Amendment unequivocally expresses the command of the sovereign people, that Congress "shall make no law" apropos the freedoms of speech and assembly and this may not be interpreted to mean that Congress may make a pseudo-law in these frames of reference. In asserting its own definitions of

* "This Committee is the only agency of government that has the power of exposure . . . there are many phases of un-American activities that cannot be reached by legislation or administrative action. . . ." H.R. Rep. No. 1, 77th Cong., 2nd Sess, 16 (1940). See, also, H.R. Rep. No. 2, 76th Cong., 1st Sess. 13 (1939); H.R. Rep. No. 2742, 79th Cong., 2nd Sess., 16 (1940). The Chairman in his final statement at the close of the hearing on Oct. 30, 1947, said: "this hearing has concerned itself principally with spotlighting Communistic personnel in the industry."

"subversive" and "un-American" and in disseminating these definitions over the land by means of sensational public hearings, press releases, newsreels and radio broadcasts, the Committee has propagated a pseudo-law which in fact has delimited the rights and duties of Americans. The Committee has spoken its views on the advocacy of racial equality, adherence to the New Deal, on Henry Wallace, on the conduct of the motion picture industry, on the American Slav Congress—all under color of a claimed constitutional right. This has, of course, had the effect of giving a sufficient tinge of legality to a wholly illegal exercise of legislative power to impress the aforesaid views, in the eyes of the American people, with that Congressional sanction which a law abiding citizenry is customarily wont to heed.

In this manner the House Committee on Un-American Activities has aggrandized to itself the role of arbiter as to the controversial issues of our time and, as such has sought to control and affect the thinking and associations of our people. It has asserted a "guardianship of the public mind." The said Committee's "exposure" of the allegedly un-American activities of screen writers has led the leaders of the motion picture industry to deprive these writers of their right to earn their livelihood in the industry. The content of motion pictures was patently influenced by the Committee's public evaluation of the "subversive" character of certain films. A recent report by the Committee, replete with "facts" colored by the bias of the reporter, has led to the intimidation of hundreds of Slavic Americans in their association with the American Slav Congress. The publication ("exposure") by the Committee of the names of hundreds of individuals who have greeted the said Congress upon one or another occasion has cast a wholly unwarranted tinge of illegality upon the activities of these individuals and intimidated countless others of their friends. In like manner have other organizations with programs opposed by the members of the Committee, been carefully "exposed" to the public.

Executive order 9835 joins the hands of the executive and legislative branches of our government in an outright adoption

of this Nazi-like method of thought control to the American scene. In that, among other evils, it has bred the Attorney General's index expurgatorius, a list of organizations subversive of a government official's conception of loyalty, the said order enables governmental dictation in the areas of speech, thought and association. Here again, the technique of exposure, muffled by an apparently authoritative sanction, effects a pseudo-law which in fact limits the rights and duties of Americans. The government worker may associate freely, that is in disregard of his government's interdiction of certain organizations, only at the risk of sacrificing his freedom to work. Mr. Justice Hughes, speaking for a unanimous court in *De Jonge* v. *Oregon*, 299 U.S. 353 described the American's right so to disregard this type of interdiction as: "of the essence of his guaranteed personal liberty."

The evil allowed spreads however, beyond the invasion of personal right. The existence of the Order and the above-mentioned list bars the relatives and friends of the Federal employee from bespeaking their opinions and associating freely. They may do so only at the risk of clouding the employee's record. Students contemplating governmental careers must associate free of idealistic or intellectual motivation, a freedom heretofore absent from the lexicon of democracy. The repressive arm of the Loyalty Order reaches out to the men of our factories operating under government contract, to scientists in laboratories, to employees of the governments of States which have followed the lead of the Order. It is plain that listed organizations, carefully "exposed" to the people in a setting of bias ensured by non-publication of the evidence of their "subversiveness" and denial of all the procedural rights which form our revered concept of "due process," are effectively outlawed for vast numbers of our people. The programs and policies of these organizations are taboo. The vague standard, the hierarchical sanction above question, the concept of guilt by association—these true subversions of democracy, if left unchecked by this Court, will lead inevitably to an undermining of the very roots of the American way.

CONCLUSION

The right, the will and the power of the American people to govern themselves rests upon the unrestricted freedom to judge the content of ideas for themselves. Governmental intervention in the exercise of this judgment, under whatever guise, necessarily restricts this freedom. The American Slav Congress, therefore, prays that these convictions be set aside.

Respectfully submitted,

AMERICAN SLAV CONGRESS,
SAMUEL NEUBURGER,
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